

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

05-CR-6124L

v.

VICTOR DEPONCEAU,

Defendant.

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This Court referred all pretrial matters in the above captioned criminal case to United States Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b).

Counsel for the defendant filed a motion pursuant to 18 U.S.C. § 4241(a) for a hearing to determine defendant's mental competency. Magistrate Judge Payson ordered the defendant to undergo a psychiatric examination pursuant to § 4241(b) and scheduled a competency hearing for February 9, 2006.

Magistrate Judge Payson and counsel received the psychiatric report from the Federal Medical Center, Lexington, Kentucky. The opinions of the psychologists at that facility were that the defendant is currently competent to stand trial. At the hearing, neither the Government nor the defendant objected to the report and its conclusion. Magistrate Judge Payson, therefore, issued a Report and Recommendation on February 15, 2006 that defendant is not presently suffering from a mental disease or defect that renders him incompetent to understand the nature of the proceedings and properly assist in his defense. Magistrate Judge Payson recommended that this Court find the defendant to be competent to stand trial.

I have reviewed Magistrate Judge Payson's Report and Recommendation, as well as the thorough 11 page forensic report from the Lexington Federal Medical Center. I agree with Magistrate Judge Payson's determination and accept her report.

CONCLUSION

I find that the defendant Victor Deponceau is presently competent to stand trial.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", is written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
March 13, 2006.